IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPEAL NO.10 of 1992

State of Maharashtra .. Appellant

versus

Kumar Nana Jadhav & Anr. .. Respondent

...

Mr.A.M. Shringarpure, APP for the State.

Mr.Dipam Kathrani for the respondent

CORAM : V.M. KANADE, J

DATED : 17th December 2004.

P.C:-

1. Heard the learned APP appearing on behalf of the State and the learned counsel appearing on behalf of the respondent.

2. The State has filed an appeal challenging the judgement and order passed by the JMFC Karad in RCC no.5 of 1985. The learned APP has taken me through the judgement and order of the trial Court as also the oral and documentary evidence on record. In the present case, sanction to prosecute was given by the

Jt.Commissioner, Pune Division vide exercising the power vested in him u/s.20 of the Prevention of Food Adulteration Act. I have perused the said order of sanction. The order is silent on the question regarding the need to prosecute the accused in public interest. Further the order appears to be a cyclostyled order and there is an absolute non application of mind on the part of the Jt. Commissioner. This Court has in number of cases held that while granting sanction to prosecute, the authority has to apply its mind and also consider why the prosecution is essential in public interest. Apart from that, the Apex Court also has taken into consideration that even assuming that the said order of sanction is properly granted, it would not be advisable to set aside the impugned acquittal and remand the matter for disposal of the appeal on merits after a lapse of 20 years. This Court also has taken a similar view in the case of State of Maharashtra V/s. Ramjilal Agarwal reported in 2004(4) Mh.L.J. 300.

3. In view of this, I do not see any reason to interfere with the order passed by the trial Court.

4. Appeal is accordingly dismissed.

V.M. KANADE, J